Ex. I

HIGHLY CONFIDENTIAL - UNDER PROTECTIVE ORDER - ATTORNEY'S EYES ONLY

1   UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3   OAKLAND DIVISION

4   _____

5

        ELASTICSEARCH, INC., a   )

6   Delaware corporation,   )

        ELASTICSEARCH B.V., a   )

7   Dutch corporation,   )

)Case No.

8   Plaintiffs,   )4:19-cv-05553-YGR

)

9   vs.   )

)

10   Floragunn GmbH, a German)

        corporation,   )

11   )

             Defendant.   )

12   )

13   ** HIGHLY CONFIDENTIAL **

14   ** UNDER PROTECTIVE ORDER **

15   ** ATTORNEY'S EYES ONLY **

16

17   REMOTE VIDEOTAPED DEPOSITION

18   OF

19   URI BONES

20   Wednesday, February 17, 2021

21   Amsterdam, Netherlands

22

23

24

25   Reported by: B. Suzanne Hull, CSR No. 13495

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 1                            APPEARANCES

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 3

 4

     For Plaintiffs:        O'Melveny & Myers, LLP
 5                          By MR. DAVID R. EBERHART
                            Attorney at Law
 6                          2 Embarcadero Center
                            Twenty-eighth Floor
 7                          San Francisco, California 94111
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 9

10   For Defendant:         Kwun Bhansali Lazarus, LLP
                            By MR. MICHAEL S. KWUN
11                          Attorney at Law
                            555 Montgomery Street
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                            San Francisco, California 94111
13                          (415) 630-2350
                            mkwun@kblfirm.com

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     The Videographer:      Craig Bates
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1	A. Correct.	08:28:55
2	Q. And SOLR was paid for that work; isn't that	08:28:55
3	correct?	08:28:59
4	MR. EBERHART: Objection. Vague.	08:29:00
5	THE WITNESS: Sorry.	08:29:01
6	SOLR --	08:29:03
7	BY MR. KWUN:	08:29:05
8	Q. Don't worry. Let me -- let me re-ask the	08:29:05
9	question. I asked that incorrectly.	08:29:09
10	A. Okay.	08:29:09
11	Q. And Orange 11 was paid for the work that you	08:29:11
12	did that used SOLR or Lucene.	08:29:13
13	Isn't that true?	08:29:17
14	A. Yes.	08:29:18
15	Q. The money that Orange 11 was paid when it	08:29:18
16	used SOLR or Lucene, none of that money went to the	08:29:23
17	Apache Software Foundation, did it?	08:29:28
18	A. No.	08:29:32
19	Q. You are a founder of Elastic.	08:29:43
20	Isn't that true?	08:29:46
21	A. Yes.	08:29:47
22	Q. And when I say Elastic, I'm referring to the	08:29:48
23	company or companies known as Elasticsearch.	08:29:52
24	Do you understand that?	08:29:55
25	A. Yes.	08:29:57

Page 24

1	Q. Did you found Elastic in July 2012?	08:29:57
2	A. Could be. I don't remember the exact date.	08:30:08
3	Q. Was it approximately July 2012?	08:30:10
4	A. Yes.	08:30:13
5	Q. In Exhibit 70, your LinkedIn resumé states	08:30:13
6	that Elastic was founded in 2012 by the people behind	08:30:21
7	Elasticsearch and Apache Lucene.	08:30:26
8	Do you see that?	08:30:29
9	A. Yes.	08:30:30
10	Q. What people behind Apache Lucene are you	08:30:33
11	referring to?	08:30:37
12	A. Simon Willnauer was one of the core	08:30:39
13	contributors of Lucene -- is.	08:30:45
14	Q. Okay. And were you referring to anyone	08:30:47
15	else, other than him?	08:30:52
16	A. Not in this instance.	08:30:55
17	Q. What is Elasticsearch?	08:31:02
18	MR. EBERHART: Objection. Vague.	08:31:11
19	Are you talking about the company or the	08:31:14
20	product?	08:31:16
21	MR. KWUN: I'll -- I'll re-ask the question.	08:31:16
22	BY MR. KWUN:	08:31:19
23	Q. What is the software product Elasticsearch?	08:31:19
24	A. Elasticsearch is basically a -- again, it is	08:31:22
25	a server that is built in a distributive manner,	08:31:27

Page 25

HIGHLY CONFIDENTIAL - UNDER PROTECTIVE ORDER - ATTORNEY'S EYES ONLY

1	in mind?	08:40:05
2	MR. EBERHART: Objection. Vague. Calls for	08:40:06
3	speculation.	08:40:08
4	THE WITNESS: Not entirely true. It is --	08:40:12
5	didn't implement secure features into the product,	08:40:16
6	but it was built in such a way that as far as we --	08:40:20
7	it could -- that it will be possible to add them	08:40:27
8	later.	08:40:31
9	BY MR. KWUN:	08:40:32
10	Q. All right. Going back to Mr. Saly.	08:40:42
11	You said that you first became aware of him	08:40:46
12	when he announced that he was working on a security	08:40:50
13	plugin for Elasticsearch; is that correct?	08:40:54
14	A. I believe so, yes.	08:40:57
15	Q. When did you first -- strike that.	08:40:58
16	Have you ever met Mr. Saly?	08:41:07
17	MR. EBERHART: Objection. Vague.	08:41:10
18	THE WITNESS: Yes.	08:41:12
19	BY MR. KWUN:	08:41:13
20	Q. When did you first meet Mr. Saly?	08:41:15
21	A. In person?	08:41:18
22	Q. Well, let's start with when did you first	08:41:22
23	meet him in -- in -- by any means?	08:41:27
24	A. I had a phone call with him. I don't	08:41:32
25	remember the exact date, but I'm sure it is in the	08:41:35

Page 31

1	records.	08:41:39
2	Q. Was that phone call before or after the	08:41:40
3	general availability release of Shield?	08:41:45
4	A. I don't remember. I think so, but I don't	08:41:49
5	remember exactly.	08:41:58
6	Q. Why were you having a telephone call with	08:41:59
7	Mr. Saly?	08:42:03
8	A. When he released the -- I don't remember if	08:42:05
9	it was a statement or how I -- I -- I got to know	08:42:14
10	that it was a -- work on it or he got to work on it.	08:42:18
11	At that time we were -- we were obviously a small	08:42:26
12	team building a security product, and we were	08:42:29
13	interested in anyone that has experience with	08:42:33
14	Elasticsearch -- development experience in	08:42:39
15	Elasticsearch and is a security expert; so he was	08:42:43
16	a great candidate to talk with -- to -- to see -- to	08:42:47
17	gauge it.	08:42:52
18	Q. What did you think he was a candidate for?	08:42:53
19	A. Potentially hiring to the security team.	08:42:59
20	Q. How long was the telephone call that you had	08:43:06
21	with Mr. Saly when you met him?	08:43:16
22	A. I don't remember exactly.	08:43:19
23	Q. Was it more than an hour?	08:43:23
24	A. Yes.	08:43:27
25	Q. Did you discuss Elastic's Shield plugin on	08:43:34

Page 32

1	that telephone call?	08:43:38
2	A. Yes.	08:43:40
3	Q. What do you remember about your discussion	08:43:42
4	with Mr. Saly about Elastic Shield plugin?	08:43:47
5	A. When the -- when we talked about his project	08:43:56
6	that he was working on, he told me that he noticed	08:44:05
7	that we implemented things a little bit different or	08:44:12
8	in a different layer -- we implemented security in	08:44:17
9	a different layer than he did -- than he did. And	08:44:21
10	when I asked him how does he know that, he told me	08:44:24
11	that they decompiled our code. And then we --	08:44:27
12	I don't know. I told him, obviously, that it was not	08:44:35
13	allowed, but it is not -- it was not a focus of the	08:44:38
14	conversation.	08:44:43
15	Q. What did you tell him about it not being	08:44:43
16	allowed to decompile Shield?	08:44:50
17	A. It is just what I just said. It was	08:44:54
18	a comment that I just made as a response to his	08:44:57
19	statement that they decompiled the code that he was	08:45:01
20	not actually allowed to do that. But, again, that	08:45:04
21	was not the -- the focus of the conversation.	08:45:08
22	Q. Was there any further discussion about	08:45:10
23	decompilation of the Shield code?	08:45:14
24	A. No.	08:45:19
25	Q. Did you believe that it was not allowed to	08:45:20

Page 33

1	decompile the Shield code?	08:45:27
2	A. I knew it was not allowed to decompile the	08:45:32
3	Shield code.	08:45:35
4	Q. Okay. What do you mean by that?	08:45:36
5	A. This was -- we built Shield. I -- I --	08:45:39
6	I started Shield as a product. I was the first	08:45:49
7	engineer on it, and we gave it -- it was	08:45:53
8	a proprietary product with a proprietary license.	08:45:55
9	And part of this license forbids you from, you know,	08:46:00
10	compiling -- decompiling the code -- the -- the --	08:46:05
11	the JAR file, which is basically to decompile the	08:46:08
12	JAVA code.	08:46:13
13	Q. Have you mentioned to anyone that Mr. Saly	08:46:14
14	told you that he had decompiled the Shield code?	08:46:26
15	MR. EBERHART: I'll object to the extent it	08:46:30
16	calls for communications with counsel.	08:46:32
17	I will instruct you not to answer as to	08:46:33
18	communications with counsel, whether inhouse or	08:46:36
19	outside. To the extent you had responsive	08:46:38
20	communications other than with counsel, you can go	08:46:42
21	ahead and answer.	08:46:45
22	THE WITNESS: Yes.	08:46:46
23	BY MR. KWUN:	08:46:47
24	Q. Who have you told that Mr. Saly told you	08:46:47
25	that he had decompiled the Shield code, leaving aside	08:46:50

Page 34

1	conversations with counsel?	08:46:54
2	A. I clearly remember telling it to Shay Banon,	08:46:57
3	which is the name of the CEO. And I think also other	08:47:04
4	people knew it, but I don't -- I don't remember --	08:47:13
5	I don't explicitly remember -- vividly remember	08:47:16
6	talking -- like, talking to them; so let's keep it	08:47:20
7	with Shay Banon.	08:47:26
8	Q. I'm going to be asking you a number of	08:47:28
9	questions that -- where I don't want to know anything	08:47:30
10	about your conversations with counsel; so unless	08:47:32
11	I ask otherwise, please understand my questions not	08:47:36
12	to include in your response your communications with	08:47:39
13	counsel.	08:47:41
14	Okay? Do you understand that?	08:47:42
15	A. Yes.	08:47:43
16	Q. What conversations have you had with people	08:47:44
17	at Elastic about Mr. Saly and the possibility that he	08:47:57
18	had decompiled Shield code?	08:48:04
19	MR. EBERHART: Object. I'm going to	08:48:08
20	instruct him not to answer as to conversations with	08:48:10
21	counsel.	08:48:12
22	Otherwise you can answer.	08:48:13
23	And object as asked and answered.	08:48:15
24	THE WITNESS: Beyond the -- just mentioning	08:48:18
25	it to Shay, I don't remember other specific	08:48:22

Page 35

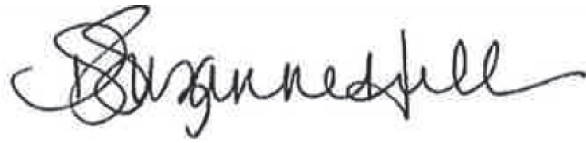|		
1	conversations around that topic.	08:48:26
2	BY MR. KWUN:	08:48:28
3	Q. Leaving aside any questions -- strike that.	08:48:34
4	Leaving aside any communications with	08:48:39
5	counsel, have you had any discussions with anyone at	08:48:40
6	any time about the possibility that Hendrik Saly, or	08:48:46
7	others at floragunn, had decompiled Elastic's code?	08:48:53
8	MR. EBERHART: Objection. Vague. Asked and	08:49:02
9	answered.	08:49:03
10	THE WITNESS: Later on, quite after --	08:49:07
11	quite -- yeah. It is quite some time past since	08:49:11
12	the -- the phone call I had with the -- with the --	08:49:16
13	Hendrik, at some point we started talking about it	08:49:20
14	more as a -- our engineers started noticing	08:49:27
15	suspicious similarities between their code and our	08:49:34
16	code.	08:49:39
17	BY MR. KWUN:	08:49:39
18	Q. Have your engineers examined floragunn's	08:49:47
19	source code?	08:49:52
20	MR. EBERHART: I'll object and instruct not	08:49:53
21	to answer as to any work product investigation taken	08:49:55
22	at the direction of counsel, whether inhouse or	08:49:58
23	outside counsel.	08:50:00
24	To the extent that you can answer	08:50:02
25	excluding -- excluding such examinations, you can go	08:50:04

Page 36

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 1   STATE OF CALIFORNIA )

                         ) ss.

 2   COUNTY OF KERN      )

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 4

 5          I, B. Suzanne Hull, a Certified Shorthand

 6   Reporter in the State of California, holding

 7   Certificate Number 13495, do hereby certify that

 8   URI BONES, the witness named in the foregoing

 9   deposition, was by me duly sworn; that said

10   deposition, was taken Wednesday, February 17, 2021,

11   at the time and place set forth on the first page

12   hereof.

13          That upon the taking of the deposition, the

14   words of the witness were written down by me in

15   stenotypy and thereafter transcribed by computer

16   under my supervision; that the foregoing is a true

17   and correct transcript of the testimony given by the

18   witness.

19          Pursuant to Federal Rule 30(e), transcript

20   review was requested.

21          I further certify that I am neither counsel

22   for nor in any way related to any party to said

23   action, nor in any way interested in the result or

24   outcome thereof.

25   ///
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Page 99

1   Dated this 18th day of February, 2021, at

2   Bakersfield, California.

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5   B. Suzanne Hull, CSR No. 13495

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Page 100